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EXAMINER

COBANOGLU, DILEK B

ART UNIT PAPER NUMBER

3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No. 09/978,221	Applicant(s) YU, QI	
Examiner Dilek B. Cobanoglu	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 December 2006.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12, 15-24 and 35-53 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12, 15-24 and 35-53 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

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DETAILED ACTION

1. This communication is in response to the amendment received on 12/01/2006. Claims 13-14 and 25-34 have been cancelled. Claims 1, 35-43 have been amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 5, 7, 9, 11, 15,17, 19, 21, 23, 39, 41, 43, 44, 45 are rejected under 35 U.S.C. 102(e) as being unpatentable by Goldenberg (U.S. Patent Publication No. 2002/0065682 A1).

A. Claim 1 is amended now to recite:

(f) feeding back a responsive health information of said registered user to the service provider for controlling and adjusting properties of said digital treatment signals of said treatment information data package to be sent from said service provider to said information connection system of said registered user (Goldenberg; paragraphs: 0011, 0017, 0055), wherein the step (f) further comprises the steps of:

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(f-1) detecting a current health information of said registered user during said biological treatment (Goldenberg; paragraphs: 0056);

(f-2) sending said detected current health information to said information connection system as said responsive health information (Goldenberg; paragraphs: 0056);

(f-3) feeding said responsive health information back to said service provider from said information connection system through said Internet (Goldenberg; paragraphs: 0056, 0058);

(f-4) evaluating said digital treatment signals of said treatment information data package sent to said information connection system of said registered user with respect to said received responsive health information (Goldenberg; paragraphs: 0063);

(f-5) adjusting said digital treatment signals of said treatment information data package to modified treatment information data package which contains updated digital treatment signals (Goldenberg; paragraphs: 0063); and

(f-6) sending said modified treatment information data package to said information connection system of said registered user through said Internet so as to transmit said updated digital treatment signals to said information connection system to update said control of said treatment instrument such that said current health information is continuously feeding back to said service provider so as to render

said biological treatment becoming a live-treatment that said digital treatment signals of said treatment information data package is controlled and adjusted correspondingly through said Internet so as to provide a better and more effective treatment result (Goldenberg; paragraphs: 0062-0064).

B. Claims 3, 5, 7, 9, 11, 15, 17, 19, 21, 23, 39, 41, 44 and 45 have not been amended, and they are rejected for the same reasons given in the previous office action (page numbers 3-12). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

C. Claims 13-14 and 25-34 have been cancelled.

D. The amendment to system claim 43 reflect the same changes made to method claim 1, and is therefore rejected for the same reasons given above for method claim 1 in addition to the reasons given in the prior office action (page number 10-11).

E. Claims 39, 41 have been amended to reflect some minor changes in these claims, and they are rejected for the same reasons given in the prior office action (page numbers 10-12). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4, 6, 8, 10, 12, 16, 18, 20, 22, 24, 35, 36, 37, 38, 40, 42, 46, 47 and 48 are rejected under 35 U.S.C. 103(a) as being anticipated over Goldenberg (U.S. Patent Publication No. 2002/0065682 A1) in view of Albert et al. (hereinafter Albert) (U.S. Patent No. 5,735,285).

A. Claims 2, 4, 6, 8, 10, 12, 16, 18, 20, 22, 24 have not been amended, and they are rejected for the same reasons given in the previous office action (page numbers 12-17). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

B. Claims 35, 36, 37, 38, 40, 42 have been amended to reflect some minor changes in these claims, and they are rejected for the same reasons given in the prior office action (page numbers 19-20). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

C. Claims 46, 47 and 48 have not been amended, and they are rejected for the same reasons given in the previous office action (page numbers 20-21). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being anticipated over Goldenberg (U.S. Patent Publication No. 2002/0065682 A1) and Albert et al. (hereinafter Albert)

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(U.S. Patent No. 5,735,285) in view of Khaled et al. (hereinafter Khaled) (U.S. Patent No. 5,416,804).

A. Claim 49 has not been amended, and it is rejected for the same reasons given in the previous office action (page number 22). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

7. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldenberg (U.S. Patent Publication No. 2002/0065682 A1) in view of Swing (U.S. Patent No. 6,522,929 B2).

A. Claim 50 has not been amended, and it is rejected for the same reasons given in the previous office action (page number 23). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

8. Claim 51 is rejected under 35 U.S.C. 103(a) as being anticipated over Goldenberg (U.S. Patent Publication No. 2002/0065682 A1) and Albert et al. (hereinafter Albert) (U.S. Patent No. 5,735,285) further in view of Swing (U.S. Patent No. 6,522,929 B2).

A. Claim 51 has not been amended, and it is rejected for the same reasons given in the previous office action (page numbers 23-24). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

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9. Claim 52 is rejected under 35 U.S.C. 103(a) as being anticipated over Goldenberg (U.S. Patent Publication No. 2002/0065682 A1) in view of Bologna (U.S. Patent Publication 2003/0023129).

A. Claim 52 has not been amended, and it is rejected for the same reasons given in the previous office action (page number 24). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

10. Claim 53 is rejected under 35 U.S.C. 103(a) as being anticipated over Goldenberg (U.S. Patent Publication No. 2002/0065682 A1) and Albert et al. (hereinafter Albert) (U.S. Patent No. 5,735,285) further in view of Bologna (U.S. Patent Publication 2003/0023129).

A. Claim 53 has not been amended, and it is rejected for the same reasons given in the previous office action (page number 25). Applicant's arguments with respect to the aforementioned rejections are addressed below in the section entitled "Response to Arguments".

Response to Arguments

11. Applicant's arguments filed 12/01/2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Goldenberg is silent regarding a treatment interactivity, Examiner respectfully submits that in paragraph 0027 Goldenberg clearly teaches an interactive treatment system, which controls the

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discharge of energy impulses, chemicals, and drugs that regulate the patient's body functions. And according to paragraph 0017, the server is receiving and transmitting signals through a communication network and communicate with monitoring and treatment devices, or sometimes the patient may have an implanted sensor or chip that can monitor or control body functions, including the dispensation of signals, chemicals or drugs (paragraph 0038).

B. In response to Applicant's argument about Goldenberg fails to teach how to select the treatment information data package to control the treatment operated by the treatment instrument, Examiner would like to submit that Goldenberg teaches that the practitioner controls the treatment of a patient in paragraph 0062, the monitoring device transmits health-related information about a user over the network, the information is used for diagnostic and therapeutic purposes, then a treatment signal can be transmitted to the treatment device connected to the patient. It is clear that the practitioner(s) treating the patient selects a treatment data package to control the treatment operated by the treatment instrument, therefore the treatment signal is transmitted to the patient through the treatment device.

C. In response to Applicant's argument about Goldenberg is silent regarding any feedback to the service provider to control and adjust properties of the digital treatment signals of the treatment information package, Examiner would like to submit that Goldenberg teaches that the practitioner controls the treatment of a patient in paragraph 0062, the monitoring device transmits health-related

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information about a user over the network, the information is used for diagnostic and therapeutic purposes, then a treatment signal can be transmitted to the treatment device connected to the patient. It is clear that the practitioner(s) treating the patient controls and adjusts properties of the digital treatment signals, because the signals are transmitted to the patient after the diagnostic and therapeutic evaluation.

D. In response to Applicant's argument about Goldenberg fails to teach how to obtain an updated digital treatment signal, Examiner respectfully submits that in paragraph 0062 Goldenberg teaches monitoring device communicates the patient's body functions or chemistry to the central monitoring system, which means the treatment is started already, and according to the information received, a treatment signal can be transmitted to the patient. And also in paragraph 0063, Goldenberg teaches receiving the body function signals from the patient, analyze these signals, and then return a signal to the patient that effect the treatment. Examiner would like to state that it's very clear that Goldenberg teaches updating the treatment signals.

E. In response to Applicant's argument about Goldenberg is silent regarding how to continuously update the treatment signal and to continuously adjust the treatment signal, Examiner respectfully submits that Goldenberg teaches in paragraph 0055 that patient's parameter monitored and updated periodically, and continues in paragraph 0062 that monitoring device communicates the patient's body functions or chemistry to the central monitoring system, and according to

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the information received, a treatment signal can be transmitted to the patient.

Also, in paragraph 0056 the patient's reactions are monitored, and their normality or abnormality is determined.

F. In response to Applicant's argument about Goldenberg fails to teach how to send and feedback the responsive health information, Examiner respectfully submits that claims 1 and 43 amended now to recite feeding back responsive health information of the user and the first step is detecting a current health information, which Goldenberg teaches in paragraph 0059. In paragraph 0061 Goldenberg teaches video-conferencing services and patient viewing, which includes mental state and functions. Examiner considers that patient viewing is an input of feeling, progress and symptom

G. In response to Applicant's argument about Goldenberg fails to teach the step of providing the treatment information database and a health information database for the service provider, Examiner respectfully submits that Goldenberg teaches direct communication between the user (patient) and the provider in paragraph 0010, disclosing patient's personal medical information to the provider in paragraph 0033, and information retrieval system for health care professional, which is advanced medical knowledge in paragraph 0031.

H. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the personal information is input by the user for live-treatment only) are not recited in the rejected claim(s). Although the claims are interpreted in

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light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

I. In response to Applicant's argument about Goldenberg fails to teach the step of registering the treatment instrument in the service provider so as to make a corresponding record, Examiner respectfully submits that Goldenberg teaches home or local telemedicine devices that provide information of different body systems and functions to the central such as an implanted sensor or chip monitoring body functions as well as dispensing signals, chemical, drugs in paragraph 0038. Examiner considers that treatment devices described in this reference are registered since they are controlled remotely.

J. In response to Applicant's argument about Goldenberg fails to teach the steps of enabling the user to select the particular health problem and disease and selecting by the service provider the specific treatment information data package from the treatment information database, Examiner would like to submit that Goldenberg teaches patient selecting a particular health problem in paragraph 0031, and service provider selects the specific treatment information package in paragraphs 0033 and 0035. Also in paragraph 0062 Goldenberg teaches controlling the treatment of a patient by medical professional.

K. In response to Applicant's argument about Goldenberg fails to teach the responsive health information of the user is obtained by requesting the user to input the responsive health information, including a feeling, progress and symptom of the registered user, Examiner respectfully submits that in paragraph

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0061 Goldenberg teaches video-conferencing services and patient viewing, which includes mental state and functions. Examiner considers that patient viewing is an input of feeling, progress and symptom, which is done by patient.

L. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the personal computer for live-treatment) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to argument about the treatment signal is continuously fed back and updated to control and adjust the digital treatment signals, Examiner respectfully submits that these argument addressed in sections C and E above.

M. In response to Applicant's argument about Goldenberg fails to teach the step of decoding the digital treatment signals into analog treatment signals, Examiner respectfully submits that Goldenberg teaches treatment device and Albert (U.S. Patent No. 5,735,285) teaches decoding the digital treatment signals into analog treatment signals and that the two references have been combined as explained in the previous office action (page number 12-13) with the motivation of further demodulation, review and opinion coming from Albert.

N. In response to Applicant's argument about Goldenberg fails to teach that the current health information detected are analog signals which are converted into digital signals, Examiner respectfully submits that Albert teaches the step of

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decoding the digital treatment signals into analog treatment signals and the motivation is explained above in section M.

O. In response to Applicant's argument about Goldenberg fails to teach any decoder connected between the information connection system and treatment instrument to convert the digital treatment signals received by the information connection system from the service provider to respective analog signals to control the treatment of the treatment instrument, Examiner respectfully submits that Goldenberg teaches treatment device and Khaled (U.S. Patent No. 5,416,804) teaches an external decoder as explained in the previous office action.

P. In response to Applicant's argument about Goldenberg fails to teach treatment instrument comprises a power source and information input connection wherein the decoder is an internal decoder installed in the information connection system, Examiner respectfully submits that Albert teaches an internal decoder as explained in the previous office action (page number 21) with the motivation of further demodulation, review and opinion.

Q. In response to Applicant's argument about Goldenberg fails to teach the decoder is an external decoder physically connected between the information connection system and the treatment instrument, Examiner respectfully submits that Albert teaches an internal decoder as explained in the previous office action (page number 21) with the motivation of further demodulation, review and opinion.

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R. In response to Applicant's argument about Goldenberg fails to teach the treatment instrument is an electrical acupuncture device for operating electrical acupuncture treatment or an electromagnetic wave generator for producing electromagnetic waves with a predetermined frequency, Examiner respectfully submits that Goldenberg teaches treatment device, Albert teaches converting the signals and Swing (U.S. Patent No. 6,522,929 B2) teaches an electrical acupuncture device as explained in the previous office action (page number 23), with the motivation of healing an injury of a patient using electrical simulation and/or needles. Furthermore Bologna teaches electromagnetic wave generator and the motivation is electromagnetic wave generator is being reliable and safe as explained in the previous office action (page number 24).

Conclusion

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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01/31/2007


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